IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

AMERICAN WASTE MANAGEMENT AND RECYCLING, LLC

Plaintiff

v.

CEMEX PUERTO RICO; ET AL.

Defendants

CASE NO. 07-1658 (JAF)

OPPOSITION TO MOTION REQUESTING ORDER (Dkt. 14)

TO THE HONORABLE COURT:

COMES NOW, Defendant CANOPY ECOTERRA CORP. (hereinafter "ECOTERRA") through the undersigned counsel, reserving all defenses, including improper service of process and lack of personal jurisdiction, and very respectfully state and pray:

1. Plaintiff American Waste Management and Recycling, LLC ("AWMR") filed a motion requesting order on August 17. See Docket 14. In it AWMR wrongly insists that codefendant CEMEX Puerto Rico ("CEMEX") is permitting personnel from Ecoterra to enter their facility where the work, materials and equipment from AWMR are supposed to be in place.

2. What AWMR omits in informing this Honorable Court is the size and extension of the premises of the CEMEX facilities in Ponce. To wit, CEMEX has one gated facility that requires

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authorization by a security guard to enter, where it manufactures its main product, cement.

3. The contract that AWMR had with Ecoterra required the former to dismantle certain designated areas in the cement plant.[1] The cement plant is located north or right above State Road No. 10 (seen in a map as "Ctra 10"). The designated cement plant area is where AWMR was required to work and where it did labor, the area that is gated. We shall henceforth identify this area as "Site A".

4. Now, what AWMR alleges in its attempt to induce this Honorable Court to error is located right below or south of "Ctra 10" next to a street identified as "Calle Sabor Dulce". This facility, also property of CEMEX, is not the cement plant located in Site A. Thus, this area will henceforth be identified as "Site B".

5. In a brief review of the contract that existed between AWMR & Ecoterra, it is easily ascertainable that the area of work that was of AWMR's responsibility was limited to Site A.

6. At no point in time, and in no place of the contract between AWMR & Ecoterra, is Site B part of the scope of work that was the responsibility of AWMR. See Verified Complaint, Dkt. 1 at Exhibit 2.

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1 Ecoterra will attempt to provide an aerial picture of the CEMEX premises as a visual aid to the Court.

7. Needless to say, and as has been ordered by CEMEX, at no time has Ecoterra been permitted entry to Site A since prior to the filing of this unmeritorious action. Moreover, Ecoterra underscores that it has not obtained any metals that were harvested by AWMR, as it has repeatedly stated in its motions.

8. Whatever allegations AWMR makes regarding Site B, are unwarranted, gratuitous and beyond the scope of their own complaint and TRO request (Dkts. 1 & 4).

9. AWMR fully knows the distinction between Site A and Site B. AWMR's own disingenuousness has as its sole purpose to sway this Court based on erroneous statements. AWMR, however, continues with its obstinate conduct when it knows very well that there are other sites beyond the area where AWMR worked, inside the CEMEX premises.

10. Ecoterra respectfully requests this Honorable Court not to reward this behavior and not to entertain what is clearly a frivolous motion that seeks to move this Court to error.

WHEREFORE, Ecoterra respectfully requests that this Honorable Court move to DENY plaintiff's motion requesting order (Dkt. 14) together with any further relief it may deem just and proper under the law, including the imposition of attorney's fees in favor of Defendants.

I hereby certify that on August 21, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

RESPECTFULLY SUBMITTED. At San Juan, Puerto Rico, this 21st day of August, 2007.

S/ ANTONIO VALIENTE

ANTONIO VALIENTE, USDC-PR NO. 213906

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